

The 12th January, 1982

No. 9(1)81-6 Lab./14799.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Micro Precision Products, Link Road, Faridabad :—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

References Nos. 416, 444, 419 and 447 of 1978

between

S/SHRI JAGDUT SHARMA, BHIM SINGH, DHARAM SINGH AND MAHIPAL SHARMA,  
WORKMEN AND THE MANAGEMENT OF M/S MICRO PRECISION  
PRODUCTS, LINK ROAD, FARIDABAD

Present:—

Shri S.R. Gupta for the workmen.

Shri S.L. Gupta for the management.

#### AWARD

By order No. ID/FD-1/143-78/41679, dated 14th September, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Jagdut Sharma was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/1/164-78/42729, dated 22nd September, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Bhim Singh was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/1/142-78/41739, dated 14th September, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Dharam Singh was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/1/163-78/42747, dated 22nd September, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Mahipal Sharma was justified and in order ? If not, to what relief is he entitled ?

between the management of M/s Micro Precision Products, Link Road, Faridabad and its workmen S/Shri Jagdut Sharma, Bhim Singh, Dharam Singh and Mahipal Sharma, to this Tribunal, for adjudication, in exercise of the powers conferred by clause. (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

On receipt of the order of references, notices were issued to the parties. The parties appeared and filed their pleadings. Two issues were framed on 11th January, 1979 and all the cases were consolidated with the consent of the parties in reference number 416 of 1978 for the purpose of recording of evidence. The parties made certain contentions which were disposed of by my learned predecessor in his detailed order and he framed the following issues for trial by his order, dated 29th October, 1979 :—

1. Whether the management have terminated the services of the workmen ?
2. If issue No. 1 is proved whether the workmen are not entitled to back wages ?
3. Whether the reference is pre-mature ?

4. Whether the workmen are entitled to interim relief ?
5. Whether the workmen reported for duty on 12th January, 1979 and 13th January, 1979 and the management did not allow them to resume duty ? If so, to what relief effect ?

And issue No. 6 was added by my order, dated 20th June, 1980 :—

6. Whether the termination of services of S/Shri Jagdut Sharma, Bhim Singh, Dharam Singh and Mahipal Sharma was justified and in order ? If not, to what relief they are entitled ?

The management examined in evidence Shri K.P. Chandok, Manager as MW-1. The workmen examined themselves as their own witnesses. Arguments were heard. I now give my findings as follows :—

*Issue No. 3.*—Issue No. 3 whether the reference is pre-mature hits the very basis of the reference, therefore, this issue is taken first. MW-1 deposed that there was much lawlessness and indiscipline in the factory in June, 1978. A strike notice and a telegram copy Ex. M-1 and M-2 were received from the workmen. Strike notice was replied,—vide Ex. M-3 by post, postal receipt being Ex. M-4 and acknowledgment card Ex. M-5. Chargesheets Ex. M-6 to M-9 were issued to all the concerned workmen. He further stated that on 1st July, 1978, the concerned workmen alongwith four other suspended workmen began to stop the willing workers to enter factory premises and from doing their duty. But the workmen entered the factory and did their duty. The four concerned workmen, however, remained outside the factory gate. They were given further chargesheet which was Ex. M-10. The chargesheets were sent to the workmen with forwarding letter Ex. M-11 to M-14,—vide registered post, A.D. receipts being Ex. M-15 to M-22, and three registered letters were received back undelivered. Shri Dharam Singh received chargesheet on 22nd July, 1978,—vide Ex. M-23, Shri Bhim Singh on 24th July, 1978,—vide Ex. M-24, Shri Jagdut Sharma on 22nd July, 1978,—vide Ex. M-27, Ex. M-28 was given to the concerned workmen which bear his signature. Shri Dharam Singh workman received Ex. M-29 which bear his signature. It was sent to Shri Dharam Singh,—vide registered post but the same was received back undelivered,—vide Ex. M-31. Then he received the same personally,—vide receipt Ex. M-32. Another letter was given to him,—vide Ex. M-33. Shri Mahipal Sharma replied chargesheet,—vide Ex. M-34. Letter Ex. M-35 was sent by post. A.D. receipt was Ex. M-36. Letter Ex. M-37 was delivered to Shri Mahipal personally. He had sent letter Ex. M-38 through Shri Jagdut Sharma.

He stated that he went to the office of the Labour Officer on 22nd July, 1978, regarding a complaint from the concerned workmen that their services had been terminated by the management. He had replied there that they could come for duty but they had refused to resume duty till their demand for wages of strike period was not met. The copies of demand notices given by the workmen were Ex. M-39 to M-42 and comments of the management Ex. M-43 to M-46, copy of conciliation reports Exs. M-47 to M-50. Shri Mahipal and Dharam Singh concerned workmen had come to him on 12th January, 1979 afternoon for duty. They were taken on duty, the other two workmen never reported for duty. On 15th January, 1979 the management tried to serve notice regarding pending charge-sheet upon the concerned workmen who had come for duty. They did not accept the notices and never came for duty again. Letter Ex. M-51 was received from the union which was replied,—vide Ex. M-52. Ex. M-53 to M-55 were A.D. receipts. Another letter Ex. M-56 was received from the union which was replied,—vide Ex. M-57 and A.D. receipts were Ex. M-58 and M-59. Another letter Ex. M-60 was received which was replied,—vide Ex. M-61. In cross examination he stated that he received demand notice Ex. W-1. Reference order was Ex. W-2 in respect of the demand notice. He denied the suggestion that he started victimising union leaders on receipt of the order of reference. He did not know if all the four concerned workmen were union leaders. Letter Ex. W-3 was received from the union but he could not say if letter Ex. W-4 to W-8 were received by the management. However, Ex. W-9 to W-11 were received but he was not sure about Ex. W-12. He denied the suggestion that all the four workmen wanted to resume duty from 1st July, 1978 and they were not taken on duty by the management. He replied that infact the union had given a demand notice for strike from 1st July, 1978 and all the concerned workmen alongwith some others were present at the factory gate and tried to obstruct union workers from duty. He denied the suggestion that the union had next day sent a letter to the management that there was no strike rather the concerned workmen were not allowed duty on 1st July, 1978. He replied that demand notices of the workmen were received but no reply was sent to the workmen. In fact on 22nd July, 1978 there was a meeting about the concerned workmen before Shri Amar Singh Yadav Labour-cum-Conciliation Officer, where the management had told that the services of the workmen were not terminated whereas the workmen had asserted their version. In this meeting it was offered to the workmen that they could join duty but they insisted for back wages. He denied the suggestion that the workmen were not allowed duty when they approached during pendency of the present reference.

Shri Mahipal concerned workman as WW-1 stated that there was a union of workers in the factory of which Shri Balbir Singh was the President and he was the General Secretary. His services were terminated due to his union activities. The Union had given a demand notice copy Ex. W-1 on

7th May, 1978. The management started harassing all the workmen. These demands were referred, — vide Ex. W-2 and were still under adjudication. The Union had given a strike notice but did not resort to strike. When all the four office bearers were suspended they sent telegram Ex. M-1 and letter Ex. M-2. They had gone for duty on 1st July, 1978. Shri Chandok, Proprietor of the factory did not allow all the four concerned workmen duty. The Union had wrote letter Ex. W-13 to the Conciliation Officer and Ex. W-14 to the management which was signed by him. Letter Ex. W-15 was also written to the management and Ex. W-16 to the D. S. P. by the union. He further stated that according to the statement of the representative of the management he alongwith Shri Dharam Singh went to the factory for duty on 12th January, 1979 but they were not taken on duty. Letter Ex. M-51 was sent to the management. Shri Bhim Singh and Shri Jagdut also went for duty but they were also not taken. In this behalf Ex. M-56 was sent to the management. The Union had received letter Ex. M-52 from the management. The Union had sent letter Ex. W-17 in reply to management letter Ex. M-57 and M-19 in reply to Ex. M-61 which was received back with the remarks "refused". Letter Ex. W-22 was also received back undelivered which was Ex. W-23. In cross examination he stated that they had written letter of withdrawal of strike notice but he had no proof of the same. He denied the suggestion that on 1st July, 1978 four employees were suspended. He admitted his signatures on Ex. M-9 and also letter Ex. M-34. He denied the contents of the letter Ex. M-34 to be correct. He did not remember if a meeting about him was held before Shri Amar Singh, Labour Officer on 22nd July, 1978. By Ex. M-34 he had replied the charges levelled against him. He admitted letter Ex. M-38 but denied Ex. M-37. He denied that he and Shri Dharam Singh were taken on duty by the management during the pendency of the present reference. He also denied that the management wanted to hold the enquiry. He denied that prior to 1978 the union was affiliated with the Union of Shri K. L. Sharma. He denied that the concerned workmen and five other workmen made attempt for strike on 1st July, 1978. He also denied the suggestion that his services had not been terminated. WW-2 Shri Dharam Singh stated that he was not issued any charge-sheet, warning or suspension letter before his termination of service. He was removed from service because of his union activities. He had gone on duty on 1st July, 1978 but he was not taken alongwith other Union leaders on duty. He also went for duty during the pendency of the present proceedings but was not allowed. In cross examination he admitted his signatures on Ex. M-23 and M-29. He admitted that the union had served a demand notice for strike from 1st July, 1978. He showed his ignorance about the meeting dated 22nd July, 1978 between the management and their representative Shri Adarsh Kishore before the Labour Officer in respect of his dispute. He admitted that they had demanded back wages for resuming duty during the pendency of these proceedings. He denied having gone to the Labour Officer for duty. He denied attempt of strike in the factory. Shri Bhim Singh the concerned workman as WW-3 stated that they had formed a union for which the management suspended 2-3 workers. The union had threatened the management for strike but the management stopped him from work on 1st July, 1978, on that date they had not resorted to strike. When all the workmen were going inside the factory all the concerned workmen were stopped at the factory gate. They all were union office holders. The management had offered them duty during the pendency of the proceedings and he had been going for three days but he was not given duty. In cross-examination he admitted his signatures on Ex. M-33, M-8, M-22 and M-24. He showed his ignorance about the conciliation meeting on 22nd June, 1978 as he was in his village on that day. He did not remember the date of his demand notice. He denied having written any letter to the management for withdrawal of strike notice. He denied the suggestion that he resorted to strike on 1st July, 1978. He denied having gone to the factory for joining duty during the pendency of the proceedings. He admitted having received charge-sheet during the month of July, 1978 but denied offer of enquiry letter to him. Shri Jugdut WW-4 stated that he was removed from service on 1st July, 1978 because he was a union leader. He had gone on 1st July, 1978 for duty but he was not taken on duty. They had not resorted to strike on that date. During the pendency of the proceeding when he went for duty the management refused him work and told that there was no orders to that effect. In cross examination he admitted his signatures on Ex. M-28 but denied his signatures on Ex. M-10, M-18 and M-27. He denied that he was on strike on 1st July, 1978 and also forced other workers not to go for duty. He denied having gone to the factory during the pendency of the proceeding for duty. He did not remember the date of his demand notice and stated that he never appeared before the Conciliation Officer regarding demand notice.

The learned representative for the management argued that the management had clearly given its case before the Conciliation Officer and as well in the written statement that the services of the workmen were never terminated. He drew my attention to the preliminary objection and the written statement. He also read out the chain of documents relied upon the management and argued that the reference was pre-mature there being no termination of service. On the other hand the learned representative for the workmen argued that by not taking on duty termination of services was presumed. He laid emphasis that the workmen were victimised for their union activities.

The management relied on as many as 51 documents. Ex. M-1 is copy of telegram, dated 22nd June, 1978 from employees union to the management asking the management to withdraw suspension orders of four workmen otherwise workers will strike work from 1st July, 1978. The names of the workmen also appears in the telegram but the name of none of the concerned workmen is there. Letter Ex. M-2 is also dated 22nd June, 1978 and from the General Secretary of the

union in which the telegram is confirmed and the call of strike is reiterated. The management was requested to withdraw the 'false illegal charge-sheets and suspension orders'. Ex. M-3 is the copy of savingram in reply to the telegram Ex. M-1. In reply the management stated that under the garb of leadership the workmen had created lawlessness in the factory and by their indiscipline the management and the majority of workers were fed up. It further wrote that the workmen may be advised to behave properly and cooperate in the process of disciplinary action. Documents Ex. M-6 to M-9 are charge-sheets issued to the concerned workmen which were received by the workmen on the same date i.e. 30th June, 1978, Ex. M-10. Another chargesheet Ex. M-10 was sent to the workmen,— vide Ex. M-11, M-14, M-18 and M-19 by post alleging that they were on strike on 1st July, 1978. The management constituted an enquiry and sent letters Ex. M-25, M-27 to M-30, M-32 and M-33 to the concerned workmen. The management issued letter Ex. M-37 on 22nd July, 1978 to Shri Mahipal Sharma informing him about the date and time of enquiry against him. He received letter on the same date. He wrote letter Ex. M-38 requesting adjournment of the date of enquiry. All the concerned workmen sent demand notice dated 22nd July, 1978 to the management alleging that the management stopped them work from 1st July, 1978. The workmen produced documents Ex. W-1 a general demand notice dated 7th February, 1978, Ex. W-2 reference order, Ex. W-3 copy of a letter dated 7th June, 1978 from Shri Dharam Singh workman, Ex. W-4 reply to chargesheet by Shri Dharam Singh, Ex. W-6 from Shri Mahipal, Ex. W-12 from Shri Bhim Singh, Ex. W-5, W-7, W-19, W-22, W-14, W-15 and Ex. W-17 address to the management by General Secretary of the union, I find from the letters that the management wanted to proceed with the domestic enquiry and was seeking participation of the concerned workman. On the other hand the union had taken the stand that their services stood terminated and after the reference there remained nothing for trial at the management stage. The charge-sheets, explanations and constitution of enquiry by the management proves that the process of disciplinary proceeding was continuing when the workmen raised demands giving rise to the reference in hand. The contention of parties finds mention in the order dated 29th October, 1979 passed by my learned predecessor also. It is mentioned that two of the workmen went to the management for duty and the management wanted to start process of disciplinary action by giving them chargesheet and suspension order.

I have also gone through the comments Ex. M-43 to M-46 and conciliation reports Ex. M-17 to M-50 which are identical in respect to demand notice dated 22nd July, 1978. The representative for the management had stated there that the services of the concerned workmen were not terminated, rather they had been on strike. After going through the evidence oral as well documentary, I have reached the conclusion that the disciplinary proceedings were still in progress at the time of giving demand notice dated 22nd July, 1978. There cannot be any two opinions about the rights and privileges of the management in taking disciplinary action against delinquent employee rather it was its duty to hold a domestic enquiry in such cases. In such a situation the workmen should have defended themselves in the domestic enquiry and if the management had terminated their services they should have raised the demand notice. I find that the references were premature, I decide this issue in favour of the management.

Other issues were also argued by the parties but I do not want to make any comment because the reference fails on issue No. 3.

As per finding given by me on issue No. 3 the case of the workmen fails and the workmen are not entitled to any relief in the present references. I order accordingly.

Dated 2nd December, 1981.

M. C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,  
Haryana, Faridabad.

Endorsement No. 1131, dated the 10th December, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.